

## (Appendix E)

### **MEDIATION PROCESS**

(Reprinted courtesy of Dr. Bruce McKinney from his book - MEDIATION AND CONFLICT MANAGEMENT.)

#### BEGINNING AND ENDING

The mediators have the responsibility for guiding the disputants through a proven method for understanding the dispute and moving the parties toward a settlement.

In the Madison Mediation Process, each session begins with an *introduction* which includes explaining the procedures, the role of the mediator and establishing ground rules. Part two involves *defining the conflict* from their viewpoint followed by a mediator summary. Part three focuses on *solving the problems* and solutions are generated. Finally, in part four, *agreement*, is reached and the dispute is settled. Sessions usually require two to three hours to achieve a written agreement. Figure 5 represents the decisional phases of the Madison Mediation Process.

Mediation is a voluntary process that encourages persons to resolve their disputes peacefully. In contrast to the often frustrating and expensive court process which tends to polarize and intensify the issues, mediation brings persons together to work out their own solutions. They assume responsibility for arriving at an agreement that both can live with.

Trained mediators help facilitate communication between the disputing parties. The mediator is not a judge or an arbitrator who imposes a settlement after considering all the facts. He or she is not interested in determining guilt or innocence, only in helping the parties arrive at a solution where both are winners.

The following steps summarize the process in a mediation hearing:

1. Introducing the Process

The mediator must begin the hearing with a sense of purpose and order in an attempt to create a problem-solving mood. After personal introductions, the mediator explains what will happen in the session, so that nobody will be surprised. Ground rules are established and the role of the mediator is clarified.

2. Defining the Conflict

Each party is given opportunity to tell facts from their perspective without interruption. A good mediator is a careful and understanding listener. She or he encourages the parties to get all the crucial facts and feelings out in the open and attempts to focus the underlying causes of the problem. Following each person's story, the mediator asks what they would like to see happen during the session in very specific terms, and then summarizes all the key issues.

### 3. Solving the Problem

The mediator begins to focus the issues dealing with one of them at a time. She or he concentrates on areas of agreement and begins to build on them. Dialogue and cooperation between parties is encouraged. The mediator frequently summarizes and clarifies the issues, constantly looking for common ground and for offers that the parties are willing to exchange. The mediator may meet separately with each party in private discussion to consider compromise and reflect on ways to meet the needs of the other party. When neither party is willing to "give", a reminder of the long-term costs of failing to reach an agreement may be an effective tool in problem-solving. There is no magic formula for success. It takes a lot of hard work by everyone.

### 4. Implementing the Agreement

If both parties feel they have won, and a solution has been reached on the crucial issues, the mediator summarizes the agreement point by point in the presence of both parties. The agreement is written out and signed by the two parties. They are responsible for living by the terms they have agreed on. The mediator will make contact several weeks later to see how the agreement is working.